

SECRET

DPD-0109-62
4 January 1962

EB

Subject: Personal Property Tax Settlement
Contract No. SP-1921

Dear Bob:

Your letter of 19 December 1961 regarding the subject matter has been reviewed and is found acceptable. It is therefore requested that your refund check in the amount of \$952.45 be forwarded. This check should be made payable to the Treasurer of The United States.

Very truly yours,

SIGNED

Wendell

25X1A

CS/DPD-DD/P: [REDACTED] cc

Distribution:

Cy 1 - [REDACTED]

2 - CS/DPD SP-1921 Cont. Sect. w/DPD 7972-61 w/att.

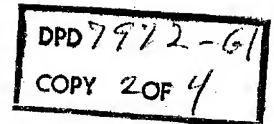
3 - FIN/DPD w/DPD-7972-61 w/att.

4 - CS/DPD Chrono

5 - RI/DPD

25X1A

SECRET



19 December 1961

To: Contracting Officer, Contract SP-1921

Subject: Personal Property Tax Settlement

You will recall that a suit was filed in the Court of Claims to litigate the tax refund matter. A settlement agreement has now been reached, and I think it is fair to say that such settlement reflects substantially the correctness of our method of allocation.

In brief summary, after we had paid the Government some \$3,000,000 on account of tax refunds from the county, the Government withheld from payments due us under current contracts almost \$3,000,000 more, and we sued for the amount so withheld. The settlement was in the amount which we claimed, less \$385,000. Although there is no agreement on the composition of that latter sum, two elements which were discussed (and which in our minds are included) are the first two of the following:



1 was simply a mutually-agreed final computation of the correct amount of profit which was included in contract prices (other than yours) along with the tax. 2 reflects the fact that the Government asserted that it had a good case regarding amounts allocable to CPFF contracts. 3 as indicated is simply an arbitrary amount, because a settlement agreement always involves some compromise.

Enclosed for your information is a copy of the letter from the Justice Department effecting the settlement.



Consequently, the correct amount which should be refunded to you pursuant to Article 6 is \$952.45. If you agree and confirm that we should now so do, we will send you our check in that amount.

Very truly yours,

cc: Mr. Joe Williams

DEC 11 1961

WHO:KMB
154-325-60

bmf

Department of the Air Force
Washington 25, D. C.

Attention: General Counsel

Re: Lockheed Aircraft Corporation v. United States,
Court of Claims No. 326-60

Dear Sir:

This will refer to our letter of September 15, 1961, enclosing a copy of an offer in compromise, dated that day, which we had received from plaintiff. Reference is also made to your letter of November 8, 1961, recommending acceptance of this offer.

This is to advise you that, on December 9, 1961, the Attorney General accepted this offer in compromise. Pursuant to your representations that payment can be made to plaintiff from the Suspense Account, this is to request that you make arrangements for the payment to plaintiff of the \$2,243,732.68 provided in the settlement. You will, of course, be entitled to receive the further refunds of \$819,352.43, if and when they are paid to plaintiff.

We are holding in escrow a motion signed by plaintiff's attorneys to dismiss the petition and counterclaim with prejudice. As soon as we get word that payment has been made to plaintiff, we shall file this in the Court of Claims. If there are any other documents which you may consider necessary to effectuate this compromise, we suggest that you deal directly with plaintiff's attorneys, since we understand that time is of the essence to plaintiff in completing this matter.

Yours very truly,

WILLIAM H. ORRICK, JR.
Assistant Attorney General
Civil Division

By:

John B. Miller
Chief, Court of Claims Section

cc: Numa L. Smith, Jr., Esq.
1001 Connecticut Avenue
Washington 6, D. C.

UNITED STATES DEPARTMENT OF JUSTICE

Washington, D.C.

WHO:KMB
154-326-0

DEC 11 1961

hmf

Numa L. Smith, Jr.
1001 Connecticut Avenue
Washington 6, D. C.

Re: Lockheed Aircraft Corporation v. United
States, Court of Claims No. 32-60

Dear Mr. Smith:

Confirming the advice given to Mr. Kipp over the telephone, this is to advise you that the Attorney General has accepted your offer in compromise of the pending action and counterclaim.

We are enclosing a copy of a letter to the Department of the Air Force, advising it of this decision. We have been advised informally that the funds to effectuate this compromise can apparently be paid from the Suspense Account with a minimum of delay.

We should appreciate your advising us when you actually receive this payment, so that we may file the motion to dismiss which we are holding in escrow.

Yours very truly,

WILLIAM H. ORRICK, JR.
Assistant Attorney General
Civil Division

By:

/s/ John B. Miller
Chief, Court of Claims Section

cc: Honorable Roald A. Hogenson
Commissioner
United States Court of Claims
Washington 6, D. C.

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NATIONAL 8-9300

NEW YORK ASSOCIATE
EVERETT JOHNSON & BRECKINRIDGE
80 EXCHANGE PLACE

September 15, 1961

Hon. William T. Orrick, Jr.
Assistant Attorney General
Civil Division
Department of Justice
Washington 25, D. C.

For the Attention of Kendall M. Barney, Esq.

In re: Lockheed Aircraft Corporation v. United States
Court of Claims Dist. No. 335-60

Dear Sir:

The plaintiff in its Petition filed on August 19, 1960, seeks judgment in the amount of \$2,388,400.91 in payment of work performed under contracts described therein. This amount was withheld by the Government in connection with the contracts and claims set forth in the Government's Counterclaim.

The Government under the contracts listed on pages 2-6, inclusive, of its Counterclaim seeks to recover from the plaintiff personal property taxes refunded to the plaintiff by California taxing jurisdictions. The total refund required to be made by the California taxing jurisdictions to the plaintiff as a result of the decision in General Dynamics Corporation v. County of Los Angeles, 38 Cal.2d 50, 230 P.2d 704 (1955), is \$7,142,643.40. Of such total required refund, the plaintiff has received \$4,822,770.03. The remaining balance of \$2,319,873.37 is to be paid to the plaintiff by the taxing jurisdictions in installments due to the plaintiff by the taxing jurisdictions in installments due to the plaintiff.

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Of the California tax refund thus far received by the plaintiff, the plaintiff has paid to the Government the amount of \$2,822,887.48, as representing the Government's share thereof under the contracts involved in the Government's Counterclaim. The plaintiff has also paid to the Government the further amount of \$137,418.23, as representing the profits and fees which the Government was entitled to have returned to it under such contracts.

The Government in its Counterclaim seeks to recover an additional \$3,248,066.14, of which \$2,828,406.91 represents a part of the refund made to the plaintiff prior to the filing of the Petition and which the Government has withheld from amounts otherwise due the plaintiff, and \$309,676.23 represents the part of the refund made by California taxing jurisdictions to the plaintiff subsequent to the filing of the Petition. But for the withholding by the Government, the plaintiff admittedly owes the Government such latter amount of \$309,676.23. The Government also claims that under such contracts the plaintiff owes the Government additional amounts representing profits and fees paid with respect to the taxes returned by the plaintiff to the Government.

For the purpose of disposing of this controversy without trial, the plaintiff hereby offers to settle the case on the following terms and conditions:

1. The parties agree that the plaintiff is entitled to recover on the cause of action stated in its Petition the

amount of \$2,928,408.91, less the amount of \$209,676.22 admittedly owed by the plaintiff to the Government and less the further amount stated in the immediately following paragraph.

1. The parties agree that the Government is entitled to recover the amount of \$285,000 in satisfaction of its Counterclaim and in satisfaction of its further claim for additional profits and fees.

2. The parties agree that the Government shall, upon acceptance of this offer, promptly make an administrative refund to the plaintiff in the amount of \$2,243,732.69. This amount is the difference between the amount of \$2,928,408.91, which the plaintiff is entitled to recover, and the amounts of \$209,676.22 and \$475,000, aggregating \$684,676.22, which the Government would be entitled to under the terms of this offer.

3. The parties agree that the plaintiff will promptly turn over to the Government, as and when received, the remaining amount of \$185,353.41, owed by California taxing jurisdictions to the plaintiff.

4. The parties agree that the acceptance of this offer by the Government and the Government's payment to the plaintiff of the amount of \$2,243,732.69 will constitute full settlement of all claims in the Petition and the Answer and Counterclaim and of all claims arising under the contracts involved in the Counterclaim that the Government may have against the plaintiff for additional monies based on the refund of personal property taxes assessed during the period 1963

through 1958 by California taxing jurisdictions with respect to personal property title to which was vested in the Government. It is understood, however, that paragraph 4 above will remain effective until the plaintiff has received from California taxing jurisdictions the balance of the refund owed to it and the return by the plaintiff of such amounts to the Government.

It is requested that this offer be given prompt consideration. If additional information is requested, please telephone me at NATIONAL 8-6380.

Respectfully,

Sam L. Smith, Jr.

Attorney for the Plaintiff

NLS:md